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March 18, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh 
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review and Rescission, in Part: Small
Diameter Graphite Electrodes from the People's Republic of China

SUMMARY

In response to requests from interested parties, the Department of Commerce (the Department) is conducting this administrative review of the antidumping duty (AD) order on small diameter graphite electrodes (graphite electrodes) from the People's Republic of China¹ (PRC), covering the period February 1, 2012, through January 31, 2013. The Department preliminarily determines that during the period of review (POR) certain manufacturers/exporters covered by this review have made sales of subject merchandise at less than normal value (NV). Interested parties are invited to comment on these preliminary results. We intend to issue our final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).

The Department is also rescinding this review for those exporters for which requests for review were timely withdrawn and which had a separate rate.² For the companies for which this review is rescinded, ADs shall be assessed at rates equal to the cash deposits of estimated ADs required at the time of entry, or withdrawal from warehouse, for consumption. Exporters for which requests for review were timely withdrawn that did not have a separate rate will remain part of the PRC-wide entity. Furthermore, we determine that thirteen companies, for which a review was requested, have not demonstrated entitlement to a separate rate.³ As a result, we

¹ See *Antidumping Duty Order: Small Diameter Graphite Electrodes from the People's Republic of China*, 74 FR 8775 (February 26, 2009) (SDGE Order).

² See the accompanying *Federal Register* notice.

³ See "Separate Rates" section below.



preliminarily determine that they are part of the PRC-wide entity, and are subject to the PRC-wide entity rate.⁴

BACKGROUND

On February 26, 2009, we published in the *Federal Register* the AD order on graphite electrodes from the PRC.⁵ On February 1, 2013, we published a notice of opportunity to request an administrative review of this order.⁶ On February 28, 2013, we received timely review requests in accordance with 19 CFR 351.213(b) from Beijing Fangda Carbon Tech Co., Ltd., Chengdu Rongguang Carbon Co., Ltd., Fangda Carbon New Material Co., Ltd., Fushun Carbon Co., Ltd., and Hefei Carbon Co., Ltd. (collectively, the Fangda Group⁷),⁸ Fushun Jinly Petrochemical Carbon Co., Ltd. (Fushun Jinly),⁹ Xinghe County Muzi Carbon Co., Ltd. (Muzi Carbon),¹⁰ Jilin Carbon Import and Export Company (Jilin Carbon).¹¹ On February 28, 2013, the Department also received a timely request for an administrative review of 190 companies from SGL Carbon LLC and Superior Graphite Co. (the petitioners).¹² On March 29, 2013, we initiated an administrative review of the AD order on graphite electrodes from the PRC with respect to 191 companies.¹³ In the *Initiation Notice*, one company for which the review was requested, Inner Mongolia QingShan Special Graphite and Carbon Co., Ltd., was also inadvertently listed a second time as Inner Mogolia QingShan Special Graphite and Carbon Co., Ltd.¹⁴ Accordingly, the correct count of companies under review is 190.

On April 9, 2013, we released to interested parties U.S. Customs and Border Protection data covering POR imports of graphite electrodes from the PRC and invited comments on the Department's selection of respondents for individual examination.¹⁵ On May 3, 2013, we

⁴ See "PRC-Wide Entity" section below.

⁵ See *Antidumping Duty Order: Small Diameter Graphite Electrodes from the People's Republic of China*, 74 FR 8775 (February 26, 2009).

⁶ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 78 FR 7397 (February 1, 2013).

⁷ We refer to the Fangda Group as a single entity pursuant to 19 CFR 351.401(f)(1). See *Small Diameter Graphite Electrodes From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances, in Part*, 73 FR 49408, 49411-12 (August 21, 2008) (where we collapsed the individual members of the Fangda Group), unchanged in *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People's Republic of China*, 74 FR 2049 (January 14, 2009).

⁸ See Letter from the Fangda Group entitled "Small Diameter Graphite Electrodes from China; Request for Administrative Review," dated February 28, 2013.

⁹ See Letter from Fushun Jinly entitled "Small Diameter Graphite Electrodes from China; Request for Administrative Review," dated February 28, 2013.

¹⁰ See Letter from Muzi Carbon entitled "Small Diameter Graphite Electrodes from China; Request for Administrative Review," dated February 28, 2013.

¹¹ See Letter from Jilin Carbon entitled "Small Diameter Graphite Electrodes from China; Request for Administrative Review," dated February 28, 2013.

¹² See Letter from petitioners entitled "Small Diameter Graphite Electrodes from the People's Republic of China – Request for Initiation of Antidumping Administrative Review," dated February 28, 2013.

¹³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 19197 (March 29, 2013) (*Initiation Notice*).

¹⁴ *Id.*, 78 FR at 19206.

¹⁵ See the Department's memoranda to "All Interested Parties," dated April 9, 2013.

selected the Fangda Group and Fushun Jinly for individual examination in this review.¹⁶ On May 6, 2013, we sent the AD questionnaire to the Fangda Group and Fushun Jinly.¹⁷ On May 28, 2013, we received a separate-rate certification from Muzi Carbon.¹⁸ On May 29, 2013, we received a separate-rate application from Jilin Carbon.¹⁹

On June 27, 2012,²⁰ the petitioners timely withdrew their review requests and asked the Department to rescind the review with respect to 163 of the 190 companies for which the Department initiated a review.²¹ Between June 7, 2013, and March 10, 2014, the Fangda Group and Fushun Jinly responded to the Department's original and supplemental questionnaires.

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.²² Therefore, all deadlines in this segment of the proceeding have been extended by 16 days.

We extended the time limit for the preliminary results of review to March 17, 2014, pursuant to section 751(a)(3)(A) of the Act.²³

Due to the closure of the Federal Government in Washington, DC on March 17, 2014, the Department reached this determination on the next business day (*i.e.*, March 18, 2014).²⁴

SCOPE OF THE ORDER

The merchandise covered by the order includes all small diameter graphite electrodes of any length, whether or not finished, of a kind used in furnaces, with a nominal or actual diameter of 400 millimeters (16 inches) or less, and whether or not attached to a graphite pin joining system or any other type of joining system or hardware. The merchandise covered by the order also

¹⁶ See the Department's memorandum entitled "Small Diameter Graphite Electrodes from the People's Republic of China: Selection of Respondents for Individual Examination," dated May 3, 2013 (Respondent Selection Memo).

¹⁷ See Letters from the Department releasing the questionnaire, dated May 6, 2013.

¹⁸ See Letter from Muzi Carbon entitled "Small Diameter Graphite Electrodes from China; Separate Rate Certification of Xinghe County Muzi Carbon Co., Ltd.," dated May 28, 2013 (Muzi Carbon SRC); *see also* "Separate Rates" section below.

¹⁹ See Letter from Jilin Carbon entitled "Small Diameter Electrodes from China; Separate Rate Application of Jilin Carbon Import and Export Company," dated May 29, 2013 (Jilin Carbon SRA); *see also* "Separate Rates" section below.

²⁰ See Letter from the petitioners entitled "Small Diameter Graphite Electrodes from the People's Republic of China – Petitioners' Withdrawal of Certain Requests for Antidumping Administrative Review," dated June 27, 2013. In response to our July 2, 2013 letter, on July 8, 2013, the petitioners clarified their withdrawal of review requests with respect to certain companies.

²¹ See "Partial Rescission of the Administrative Review" section of the accompanying *Federal Register* notice.

²² See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (October 18, 2013).

²³ See memorandum entitled "Small Diameter Graphite Electrodes From the People's Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated October 24, 2013.

²⁴ See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

includes graphite pin joining systems for small diameter graphite electrodes, of any length, whether or not finished, of a kind used in furnaces, and whether or not the graphite pin joining system is attached to, sold with, or sold separately from, the small diameter graphite electrode. Small diameter graphite electrodes and graphite pin joining systems for small diameter graphite electrodes are most commonly used in primary melting, ladle metallurgy, and specialty furnace applications in industries including foundries, smelters, and steel refining operations. Small diameter graphite electrodes and graphite pin joining systems for small diameter graphite electrodes that are subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 8545.11.0010,²⁵ 3801.10,²⁶ and 8545.11.0020.²⁷ The HTSUS numbers are provided for convenience and customs purposes, but the written description of the scope is dispositive.

DISCUSSION OF THE METHODOLOGY

Use of Adverse Facts Available

Section 776(a) of the Act provides that, subject to section 782(d) of the Act, the Department shall apply “facts otherwise available” if: (1) necessary information is not on the record, or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate.

²⁵ The scope described in the order refers to the HTSUS subheading 8545.11.0000. We note that, starting in 2010, imports of small diameter graphite electrodes are classified in the HTSUS under subheading 8545.11.0010 and imports of large diameter graphite electrodes are classified under subheading 8545.11.0020.

²⁶ HTSUS subheading 3801.10 was added to the scope of the *SDGE Order* based on a determination in *Small Diameter Graphite Electrodes From the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 77 FR 47596 (August 9, 2012) (first circumvention determination). The products covered by the first circumvention determination are SDGE (or graphite pin joining system) that were 1) produced by UK Carbon and Graphite Co., Ltd. (UKCG) from PRC-manufactured artificial/synthetic graphite forms, of a size and shape (e.g., blanks, rods, cylinders, billets, blocks, etc.), 2) which required additional machining processes (i.e., tooling and shaping) that UKCG performed in the United Kingdom (UK), and 3) were re-exported to the United States as UK-origin merchandise.

²⁷ HTSUS subheading 8545.11.0020 was added to the scope of the *SDGE Order* based on a determination in *Small Diameter Graphite Electrodes from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order and Rescission of Later-Developed Merchandise Anticircumvention Inquiry*, 78 FR 56864 (September 16, 2013) (second circumvention determination). The products covered by the second circumvention determination are SDGE produced and/or exported by Jilin Carbon Import and Export Company with an actual or nominal diameter of 17 inches.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include reliance on information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

The record shows that Fushun Jinly improperly described the sales process for all of its U.S. sales, by making erroneous statements and by submitting misleading documentation, as well as withholding the relevant information and necessary documentation concerning its U.S. sales until late in the administrative review.²⁸ Fushun Jinly's decision to wait until late in the proceeding to reveal its actual U.S. sales process severely affected the Department's ability to ask supplemental questions and conduct a thorough review. The contradictory information provided by Fushun Jinly in this review leads us to find that Fushun Jinly failed to disclose the exact nature of its U.S. sales process and withheld information concerning the precise role and involvement of a certain third party in the sales process associated with Fushun Jinly's reported U.S. transactions until late in the administrative review (*i.e.*, in response to the Department's October 31, 2013, supplemental questionnaire).

Specifically, the statements Fushun Jinly made along with the sales documentation it provided in its initial questionnaire response explained that Fushun Jinly was reporting that it sold subject merchandise directly to the U.S. customer, Company A, pursuant to its purchase orders, and that another company, Company B, made payment.²⁹ The statements Fushun Jinly made in its first supplemental questionnaire response continued to suggest that the U.S. customer for its reported U.S. sales was Company A and that Company B was the party that paid for the merchandise. While Fushun Jinly's assertion appeared to be supported by the documents that Fushun Jinly provided for certain U.S. sales, the explanation appeared inconsistent for the remaining U.S. sales for which we requested sales documentation. For these remaining sales, Fushun Jinly provided invoices that Fushun Jinly issued to Company B, not to Company A. In providing these invoices, Fushun Jinly did not explain why these remaining invoices were issued by Fushun Jinly to Company B and not to Company A, the U.S. customer, and how these sales can be claimed as sales to Company A.

The explanations Fushun Jinly provided in its second supplemental response, along with the documentation it furnished therein revealed for the first time in this review that Fushun Jinly did not make any sales to Company A. Instead, the second supplemental response revealed that Fushun Jinly made all its sales to Company B, which in turn re-sold subject merchandise to Company A. Specifically, Fushun Jinly's second supplemental response revealed, for the first time, that Fushun Jinly made all sales to Company B, pursuant to contracts with Company B with the knowledge of the ultimate U.S. customer, Company A, (on the basis of Company A's purchase orders provided to Fushun Jinly and direct negotiations between Fushun Jinly and Company A concerning the material terms of sale between Fushun Jinly and Company B) and

²⁸ See Fushun Jinly's Second Supplemental Questionnaire Response, November 26, 2013; *see also* memorandum entitled "Small Diameter Graphite Electrodes from the People's Republic of China - The Use of Adverse Facts Available," dated concurrently with this memorandum (AFA memo).

²⁹ We are withholding companies' names because Fushun Jinly claimed business proprietary treatment for this information.

that Company B resold the subject merchandise to Company A. This new revelation, along with the new information that for all its reported U.S. sales Fushun Jinly signed contracts with and issued invoices to Company B had not been disclosed in any of its prior submissions. Moreover, in its second supplemental response, for the first time in this review, Fushun Jinly provided its contracts with Company B and certain invoices issued to Company B that, Fushun Jinly attested, render invalid the previously submitted invoices it issued to Company A. Further, record evidence shows that there are certain irregularities associated with the entries of Fushun Jinly's merchandise into the Customs territory of the United States which may have resulted in the possible evasion of the AD cash deposits with respect to said entries.³⁰ Specifically, the record shows that, in determining the appropriate cash deposit rate associated with Fushun Jinly's entries, the U.S. Customs and Border Protection relied on what appears to be misrepresented information in identifying the seller/exporter for such entries; because improper documentation was used for entries of Fushun Jinly's merchandise sold by Company B to the importer, Company A, the merchandise entered at Fushun Jinly's AD cash deposit rate, instead of the PRC-wide cash deposit rate. For certain entries, Fushun Jinly produced documentation that the importer used in misrepresenting the appropriate information. We find that the actions of parties, including Fushun Jinly, involved in the entry of subject merchandise for consumption in the United States, compromised the efficacy of the AD laws and undermined the Department's inherent ability to safeguard the integrity of this proceeding. Further, we find that Fushun Jinly's admittance of certain actions it undertook with respect to entries of subject merchandise casts doubt on the accuracy of Fushun Jinly's response in its entirety. The discussion of the evidence supporting the Department's facts available determination involves extensive use of business proprietary information. For a full discussion of the matter, *see* AFA memo. As explained fully in the AFA memo, we find that the application of facts otherwise available to Fushun Jinly is warranted pursuant to: 1) section 776(a)(2)(A) of the Act because Fushun Jinly withheld information requested by the Department; 2) section 776(a)(2)(C) of the Act because inaccurate information provided by Fushun Jinly impeded the proceeding; and 3) section 776(a)(2)(D) of the Act because information provided by Fushun Jinly cannot be verified.

Moreover, we find that Fushun Jinly failed to cooperate by not acting to the best of its ability to comply with a request for information. Fushun Jinly possessed accurate information regarding the nature of its U.S. sales process, yet Fushun Jinly only submitted the accurate information late in the review and after the issuance of several supplemental questionnaires. As explained fully in the AFA memo, we find that Fushun Jinly failed to cooperate to the best of its ability. For all these reasons, pursuant to section 776(b) of the Act, the Department determines that, when selecting from among the facts otherwise available, an adverse inference is warranted.

Additionally, the Department determines that it cannot rely on any of the information that Fushun Jinly provided. Fushun Jinly admitted late in the review to having undertaken certain actions which we find cast serious doubt on the accuracy of Fushun Jinly's response in its entirety. As a result, the record evidence does not support the Department finding that the information purported by Fushun Jinly to be true and accurate is, in fact, true and accurate such that the Department can rely on it for purposes of this review. Therefore, the Department is not considering any information submitted by Fushun Jinly in this review, because such information does not meet the requirements of 782(e), namely the submitted information: 1) cannot serve as a

³⁰ *Id.*

reliable basis for reaching an accurate dumping determination within the meaning of section 782(e)(3) of the Act, 2) cannot be used without undue difficulties in determining which of Fushun Jinly's information is accurate and reliable, and 3) cannot be verified as there are doubts regarding the accuracy of the information. Accordingly, the Department is determining Fushun Jinly's margin based entirely on the facts available.

Finally, because we cannot rely on any of the information provided in Fushun Jinly's responses, including its section A response, Fushun Jinly failed to demonstrate its eligibility for a separate rate. Accordingly, we find Fushun Jinly to be part of the PRC-wide entity.

Selection of AFA Rate

In deciding which facts to use as adverse facts available (AFA), section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from: (1) the petition; (2) a final determination in the investigation; (3) any previous review or determination; or (4) any information placed on the record. We assigned 159.64 percent to the PRC-wide entity, including Fushun Jinly, as AFA, which is the PRC-wide rate determined in the investigation and the rate currently applicable to the PRC-wide entity and the only rate ever determined for the PRC-wide entity in this proceeding.³¹ We preliminarily determine that this information is the most appropriate from the available sources to effectuate the purposes of AFA. Our reliance on the PRC-wide rate from the original investigation, as used in the previous segments of this proceeding, to determine an AFA rate is subject to the requirement to corroborate secondary information.³²

Corroboration of Secondary Information

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall to the extent practicable, corroborate that information from independent sources that are reasonably at the Department's disposal. Secondary information is described in the SAA³³ as "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise."³⁴ The SAA explains that "corroborate" means to determine that the information used has probative value.³⁵ The Department finds that to have probative value,

³¹ See *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People's Republic of China*, 74 FR 2049, 2054-55 (January 14, 2009) (SDGE *Final LTFV Determination*); see also *Small Diameter Graphite Electrodes from the People's Republic of China: Preliminary Results and Partial Rescission of Administrative Review*, 77 FR 13284, 13289 (March 6, 2012) (SDGE *2010-2011 Review*) (unchanged in *Small Diameter Graphite Electrodes from the People's Republic of China: Final Results of the Antidumping Duty Administrative Review*, 77 FR 40854, 40856 (July 11, 2012)).

³² See section 776(c) of the Act and the "Corroboration of Facts Available" section below.

³³ See The Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. 103-316 (1994).

³⁴ See SAA, at 870.

³⁵ *Id.*

information must be reliable and relevant.³⁶ The SAA also explains that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review.³⁷

The Department previously corroborated the 159.64 percent rate, with respect to the PRC-wide entity. This rate was applied to the PRC-wide entity in the less than fair value investigation.³⁸ This rate was applied most recently in 2010-2011 administrative review as the PRC-wide entity rate.³⁹ In the 2010-2011 review, we found this rate to be both reliable and relevant with respect to the PRC-wide entity; consequently, we determined it was probative of the commercial behavior of exporters belonging to the PRC-wide entity and, thus, corroborated to the extent practicable, in accordance with section 776(c) of the Act.⁴⁰ There is nothing on the record of the instant review that calls into question our earlier corroboration of the 159.64 percent rate with respect to the PRC-wide entity. As a result, and consistent with our practice, we find that the 159.64 percent rate remains corroborated with respect to the PRC-wide entity to the extent practicable, and we will continue to assign this rate to the PRC-wide entity in this segment of the proceeding.⁴¹

Non-Market Economy Country Status

The Department considers the PRC to be a non-market economy (NME) country.⁴² In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority.⁴³ None of the parties to this proceeding contested NME treatment for the PRC. Therefore, for the preliminary results

³⁶ See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

³⁷ See SAA, at 870; see also *Notice of Final Determination of Sales at Less Than Fair Value: Live Swine From Canada*, 70 FR 12181, 12183 (March 11, 2005).

³⁸ See *SDGE Final LTFV Determination*.

³⁹ See *SDGE 2010-2011 Review*, 77 FR at 13289-13290.

⁴⁰ *Id.*

⁴¹ See, e.g., *Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011*, 78 FR 35249 (June 12, 2013), and accompanying Issues and Decision Memorandum at 9-10 & n.46; see also *KYD*, 607 F.3d at 767; *Watanabe Group v. United States*, 2010 CIT LEXIS 144, at *14-17 (CIT December 22, 2010); *Peer Bearing Co.- Changshan v. United States*, 587 F. Supp. 2d 1317, 1327 (CIT 2008); *Harvest Wholesale, Inc. v. United States*, 26 CIT 358, 370 n.21 (2002).

⁴² See, e.g., *Fresh Garlic From the People's Republic of China: Preliminary Results of the 2009-2010 Antidumping Duty Administrative Review*, 76 FR 76375 (December 7, 2011), unchanged in *Fresh Garlic from the People's Republic of China: Final Results of the 2009-2010 Administrative Review of the Antidumping Duty Order*, 77 FR 34346 (June 11, 2012).

⁴³ See *Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the 2004/2005 Administrative Review and Preliminary Notice of Intent To Rescind the 2004/2005 New Shipper Review*, 71 FR 26736 (May 8, 2006), unchanged in *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review*, 71 FR 66304 (November 14, 2006).

of this review, we are treating the PRC as an NME country and applied our current NME methodology in accordance with section 773(c) of the Act.

Separate Rates

There is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single AD rate.⁴⁴ In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.⁴⁵ It is the Department's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in *Sparklers*,⁴⁶ as further clarified by *Silicon Carbide*.⁴⁷ However, if the Department determines that a company is wholly foreign-owned or located in a market economy (ME), then a separate rate analysis is not necessary to determine whether it is independent from government control.⁴⁸

In this administrative review, of the fifteen companies⁴⁹ not selected for individual examination,⁵⁰ for which the review has not been rescinded (or for which the Department does not intend to rescind the review), and which did not make a claim of no shipments, only two

⁴⁴ See *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China*, 71 FR 53079, 53082 (September 8, 2006); *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China*, 71 FR 29303, 29307 (May 22, 2006).

⁴⁵ See *Initiation Notice*, 78 FR at 19198.

⁴⁶ See *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*).

⁴⁷ See *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*).

⁴⁸ See, e.g., *Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007).

⁴⁹ In 2010-2011 administrative review we determined that each of the following sets of companies are the same entity, respectively: Fushun Jinli Petrochemical Carbon Co., Ltd. (Fushun Jinli) and Fushun Jinly; Xinghe County Muzi Carbon Plant (Muzi Carbon Plant) and Muzi Carbon. See *Small Diameter Graphite Electrodes From the People's Republic of China: Final Results of the Antidumping Duty Administrative Review*, 77 FR 40854, 40856 (July 11, 2012) (*Graphite Electrodes 10/11 Final*) at fn 3. Further, record evidence in this review shows that each of the following additional sets of companies are the same entity, respectively: Jilin Carbon Import & Export Company (JCIE) and Jilin Carbon; Fangda Carbon New Material Co., Ltd., and Fangda Carbon New Material and Technology Co., Ltd. (FCNMT); Fushun Carbon Co., Ltd., and Fushun Carbon Plant. Accordingly, Fushun Jinli, Muzi Carbon Plant, JCIE, FCNMT, and Fushun Carbon Plant, are not part of the PRC-wide entity. The cash deposit and assessment rates that we establish in this review for Fushun Jinly, Muzi Carbon, Jilin Carbon, Fangda Carbon New Material Co., Ltd., and Fushun Carbon Co., Ltd., apply to any entries that may have been made by, Fushun Jinli, Muzi Carbon Plant, JCIE, FCNMT, and Fushun Carbon Plant during the POR.

⁵⁰ These companies are Fangda Lanzhou Carbon Joint Stock Company Co. Ltd., Jilin Carbon Graphite Material Co., Ltd., Jilin Carbon, Lanzhou Carbon Co., Ltd., Lanzhou Carbon Import & Export Corp., Lanzhou Hailong New Material Co., Lanzhou Hailong Technology, Liaoning Fangda Group Industrial Co., Ltd., Sinosteel Anhui Co., Ltd., Sinosteel Corp., Sinosteel Jilin Carbon Co., Ltd., Sinosteel Jilin Carbon Plant, Sinosteel Jilin Carbon Imp. & Exp. Co., Ltd., Sinosteel Sichuan Co., Ltd., and Xinghe County Muzi Carbon Co., Ltd.

companies, Muzi Carbon and Jilin Carbon submitted separate-rate information.⁵¹ The remaining twelve companies under review provided neither a separate rate application nor a separate rate certification, as applicable. Therefore, the Department preliminarily determines that there were exports of merchandise under review from twelve PRC exporters that did not demonstrate their eligibility for separate rate status. As a result, the Department is treating these twelve PRC exporters as part of the PRC-wide entity, subject to the PRC-wide rate.⁵² Additionally, we received a complete response to Section A of the NME AD questionnaire from the Fangda Group and Fushun Jinly, which contained information pertaining to these companies' eligibility for a separate rate.⁵³ With respect to Fushun Jinly, however, as stated above, we could not consider its eligibility for a separate rate and found this company to be part of the PRC-wide entity.⁵⁴

Absence of *De Jure* Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.⁵⁵

The evidence provided by the Fangda Group, Muzi Carbon, and Jilin Carbon supports a preliminary finding of *de jure* absence of government control based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of the companies.⁵⁶

Absence of *De Facto* Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) whether the export prices (EP) are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.⁵⁷

⁵¹ See Muzi Carbon SRC, dated May 28, 2013, and Jilin Carbon SRA, dated May 29, 2013. In Jilin Carbon's SRA, it indicated that all merchandise exported by Jilin Carbon was produced by Sinosteel Jilin Carbon Co., Ltd.

⁵² See "PRC-Wide Entity" section below.

⁵³ See Fushun Jinly's Section A questionnaire response, dated June 7, 2013; see the Fangda Group's Section A questionnaire response, dated June 12, 2013, and a supplemental Section A questionnaire response, dated December 31, 2013.

⁵⁴ See the "Use of Adverse Facts Available" section, above, and the "PRC-Wide Entity" section, below.

⁵⁵ See *Sparklers*, 56 FR at 20589.

⁵⁶ See Fangda Group's Section A questionnaire response, dated June 12, 2013, and a supplemental Section A questionnaire response, dated December 31, 2013; Muzi Carbon's separate rate certification, dated May 28, 2013; and Jilin Carbon's separate rate application, dated May 28, 2013.

⁵⁷ See *Silicon Carbide*, 59 FR at 22586-87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

The Department determines that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control over export activities which would preclude the Department from assigning separate rates. For the Fangda Group, Muzi Carbon, and Jilin Carbon we determine that the evidence on the record supports a preliminary finding of *de facto* absence of government control based on record statements and supporting documentation showing that each respondent: (1) sets its own export prices independent of the government and without the approval of a government authority; (2) retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) has the authority to negotiate and sign contracts and other agreements; and (4) has autonomy from the government regarding the selection of management.⁵⁸

In summary, the evidence placed on the record of this review by the Fangda Group, Muzi Carbon, and Jilin Carbon demonstrates an absence of *de jure* and *de facto* government control with respect to each company's respective exports of the merchandise under review, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Therefore, we are preliminarily granting the Fangda Group, Muzi Carbon, and Jilin Carbon each a separate rate.

Rate for Non-Selected Companies

In accordance with section 777A(c)(2)(B) of the Act, the Department selected Fushun Jinly and the Fangda Group as mandatory respondents in this review as it did not have the resources to examine all companies for which a review was requested.⁵⁹ As discussed above, Muzi Carbon and Jilin Carbon are exporters of graphite electrodes from the PRC which demonstrated their eligibility for a separate rate, but which were not selected for individual examination in this review. The statute and the Department's regulations do not directly address the establishment of a rate to be applied to companies not selected for individual examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. The Department's practice in cases involving limited selection based on exporters accounting for the largest volumes of trade has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in an investigation. Section 735(c)(5)(A) of the Act instructs that we are not to calculate an all-others rate using any zero or *de minimis* margins or any margins based entirely on facts available. Accordingly, the Department's usual practice has been to average the rates for the selected companies excluding zero, *de minimis*, and rates based entirely on facts available.⁶⁰ Accordingly, when only one weighted-average dumping margin for the individually investigated respondents is above *de*

⁵⁸ See Fangda Group's Section A questionnaire response, dated June 12, 2013, and a supplemental Section A questionnaire response, dated December 31, 2013; Muzi Carbon's separate rate certification, dated May 28, 2013; and Jilin Carbon's separate rate application, dated May 28, 2013.

⁵⁹ See Respondent Selection Memo.

⁶⁰ See, e.g., *Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373, 77377 (December 26, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007).

minimis and not based entirely on facts available, the separate rate will be equal to that single above *de minimis* rate.⁶¹

In this review, we calculated a weighted-average dumping margin above *de minimis* for the Fangda Group and determined a rate for Fushun Jinly based entirely on facts available. Consistent with the Department's practice, as the separate rate, we established a margin for Muzi Carbon and Jilin Carbon based on the rate we calculated for the mandatory respondent, the Fangda Group.

PRC-Wide Entity

In the *Initiation Notice*, the Department stated that if one of the companies for which this review was initiated “does not qualify for a separate rate, all other exporters of Small Diameter Graphite Electrodes from the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.”⁶² As explained above, we limited the number of companies individually reviewed. Non-selected companies were able to avail themselves of the requirements set forth in either the separate rate application or the separate rate certification, which were posted on the Enforcement and Compliance website.⁶³ Because certain parties for which a review was requested did not apply for separate rate status, they did not demonstrate eligibility for a separate rate and remain part of the PRC-wide entity, which is, accordingly, under review.⁶⁴ Further, although Fushun Jinly applied for a separate rate status, we determined that we cannot rely on any of the information provided in Fushun Jinly's responses, including its section A response. Accordingly, we determined that Fushun Jinly does not qualify for a separate rate and is part of the PRC-wide entity. As such, we preliminarily determine that thirteen companies for which a review was requested did not demonstrate their eligibility for a separate rate and are properly considered part of the PRC-wide entity.⁶⁵ In addition, 146 companies that did not have a separate rate, for which the request for review was timely withdrawn, are also part of the PRC-wide entity and, as discussed in the accompanying *Federal Register* notice, these companies continue to be under review as part of the PRC entity. See Appendix III of the accompanying *Federal Register* notice. For these preliminary results, we assign the PRC-wide entity a rate of

⁶¹ See *Small Diameter Graphite Electrodes from the People's Republic of China: Preliminary Results and Partial Rescission of Administrative Review*, 77 FR 13284, 13288 (March 6, 2012) (unchanged in *Small Diameter Graphite Electrodes From the People's Republic of China: Final Results of the Antidumping Duty Administrative Review*, 77 FR 40854, 40855 (July 11, 2012)). *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 36656, 36660 (July 24, 2009).

⁶² See *Initiation Notice*, 78 FR at 19208, fn 6.

⁶³ See *Initiation Notice*.

⁶⁴ See, e.g., *Honey From the People's Republic of China: Preliminary Results of Review*, 77 FR 46699, 46700 (August 6, 2012); *Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 64930, 64933 (November 6, 2006).

⁶⁵ These companies are Fushun Jinly, Fangda Lanzhou Carbon Joint Stock Company Co. Ltd., Jilin Carbon Graphite Material Co., Ltd., Lanzhou Carbon Co., Ltd., Lanzhou Carbon Import & Export Corp., Lanzhou Hailong New Material Co., Lanzhou Hailong Technology, Liaoning Fangda Group Industrial Co., Ltd., Sinosteel Anhui Co., Ltd., Sinosteel Corp., Sinosteel Jilin Carbon Plant, Sinosteel Jilin Carbon Imp. & Exp. Co., Ltd., and Sinosteel Sichuan Co., Ltd.

159.64 percent, the only rate ever determined for the PRC-wide entity in proceedings with respect to the SDGE Order.⁶⁶

Surrogate Country

When the Department conducts an AD administrative review of imports from an NME country, section 773(c)(1) of the Act directs the Department to base NV, in most cases, on the NME producer's factors of production (FOP), valued in a surrogate ME country or countries considered appropriate by the Department. In accordance with section 773(c)(4) of the Act, the Department will value FOPs using "to the extent possible, the prices or costs of the FOPs in one or more ME countries that are: (A) at a level of economic development comparable to that of the NME country, and (B) significant producers of comparable merchandise."⁶⁷ Consistent with Policy Bulletin 04.1, the Office of Policy produced a list of countries of potential surrogate countries that are at the same level of economic development as the NME.⁶⁸ "The surrogate countries on the list are not ranked"⁶⁹ and reflects the Department's long standing practice that, for the purpose of surrogate country selection, the countries on the list "should be considered equivalent" from the standpoint of their level of economic development.⁷⁰ Once the Department identifies the countries that are at the same level of economic development as the PRC, it then identifies those countries that are significant producers of comparable merchandise. From the countries which are found to be both at the same level of economic development as the PRC and significant producers of comparable or identical merchandise, the Department will then select a primary surrogate country based upon whether the data for valuing FOPs are available and reliable.

In the instant review, the Department identified Colombia, Costa Rica, Indonesia, the Philippines, South Africa, and Thailand as countries that are at the same level of economic development as the PRC.⁷¹ Therefore, we consider all six of these countries as having satisfied the first prong of the surrogate country selection criteria of section 773(c)(4) of the Act.

With respect to the Department's selection of a surrogate country, the petitioners commented that India is the appropriate surrogate country from which to derive surrogate factor values for the PRC because India is a significant producer of graphite electrodes or similar products and publicly available financial statements are available for two producers of graphite electrode or similar products in India.⁷² The petitioners commented that there are no production facilities for graphite electrodes or similar products in the five countries (*i.e.*, Colombia, Costa Rica, Indonesia, the Philippines, and Thailand) identified by the Department as being at the same level

⁶⁶ See, e.g., *Graphite Electrodes 10/11 Final*, 77 FR at 40856.

⁶⁷ See the Department's Policy Bulletin No. 04.1, regarding, "Non-Market Economy Surrogate Country Selection Process," (March 1, 2004), available on the Department's website at <http://enforcement.trade.gov/policy/bull04-1.html>.

⁶⁸ See the Department's memorandum entitled "Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Small Diameter Graphite Electrodes ("SDGE") from the People's Republic of China ("China")," dated July 29, 2013 (Policy Memorandum).

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ See Policy Memorandum.

⁷² See the petitioners' submission dated August 21, 2013 at 1, 8-9.

of economic development as the PRC; although there is one producer of graphite electrodes or similar products in South Africa, the remaining country identified by the Department, financial statements for this producer are not available publicly.⁷³ The petitioners commented that in alternative to using India as the primary surrogate country, the Department should use South Africa for certain surrogate values and the financial statements from the Indian producers of graphite electrodes to derive surrogate financial ratios.⁷⁴

Fushun Jinly and the Fangda Group commented that, consistent with the Department's determination in the 2010-2011 and 2011-2012 administrative reviews, Ukraine should be selected as the surrogate country.⁷⁵ The respondents commented that of the six potential surrogate countries identified by the Department as being at the same level of economic development as the PRC, only South Africa is a producer of graphite electrodes or similar products.⁷⁶ However, the respondents asserted that the Department determined in the previous segments of this proceeding that the selection of South Africa as the surrogate country is problematic because the financial statements of South African producers of graphite electrodes or similar products are not available publicly.⁷⁷ The respondents commented that Ukraine is comparable to the PRC in terms of economic development, is a significant producer of graphite electrodes or similar production, and provides a reliable source of publicly available information to value the inputs used to produce graphite electrodes and to calculate surrogate financial ratios.⁷⁸

When determining whether a potential surrogate country is economically comparable to the NME country, we consider all countries which have a *per-capita* gross national income (GNI) that falls within the range of per-capita GNIs (*i.e.*, between the highest and lowest) of the countries in the Policy Memorandum determined to be at the same level of economic development as the PRC.⁷⁹ On this basis, we determined that Ukraine satisfies the first criterion of section 773(c)(4) of the Act as a country that is at the same level of economic development as the PRC, while India does not. For this reason we determined that it is appropriate to consider Ukraine, and not India, as the potential surrogate country in this review.

The record evidence does not contain data on the actual production of graphite electrodes or similar products in order to evaluate the significance of production with respect to potential surrogate countries identified in the Policy Memorandum as well as Ukraine. Accordingly, we relied on export data as a proxy for overall production data in this review. From the countries that we identified to be economically comparable to the PRC, only South Africa and Ukraine exported significant quantities of graphite electrodes during the POR based on Global Trade

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ See Fushun Jinly and the Fangda Group's submission, dated August 21, 2013, at 1-4.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ See *Silica Bricks and Shapes From the People's Republic of China: Preliminary Determination of Antidumping Duty Investigation and Postponement of Final Determination*, 78 FR 37203 (June 20, 2013) and the accompanying Decision Memorandum at 5; unchanged in *Final Determination of Sales at Less Than Fair Value: Silica Bricks and Shapes From the People's Republic of China*, 78 FR 70918 (November 27, 2013); see also Policy Memorandum (stating that the countries provided within the memorandum are the most likely candidates, but that the list of countries is non-exhaustive, and that other countries may be considered).

Atlas (GTA) data for exports under HTS 8545.11.00.⁸⁰ As such, we find that South Africa and Ukraine meet the “significant producer” requirement of section 773(c)(4) of the Act.

With respect to these two countries, we then examined the data available on the record or, otherwise, obtainable from public sources, to determine which country provides the best available information for valuing the factors of production in this review. Pursuant to 19 CFR 351.408(c)(2), the Department normally values all factors in a single surrogate country.⁸¹ After our consideration of the availability and quality of the data of the record, we determined that the selection of Ukraine as the appropriate surrogate country is warranted in this review.⁸²

Like the PRC, Ukraine has a broad and diverse production base; we also have reliable data from Ukraine that we can use to value the FOPs and derive surrogate financial ratios.⁸³ In contrast, the record does not contain financial statements from producers of graphite electrodes or similar products in South Africa. In addition, Ukraine provides better sources of data and/or more contemporaneous data for the valuation of labor, distribution warehousing, natural gas, water, and rail freight.⁸⁴ Therefore, we preliminarily determine that it is appropriate to rely on Ukraine as the primary surrogate country in accordance with 19 CFR 351.408(c)(2).

Date of Sale

In identifying the date of sale of the merchandise under consideration, the Department will normally, in accordance with 19 CFR 351.401(i), “use the date of invoice, as recorded in the exporter or producer’s records kept in the normal course of business.” In *Allied Tube*, the CIT noted that a “party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to ‘satisfy’ the Department that ‘a different date better reflects the date on which the exporter or producer establishes the material terms of sale.’”⁸⁵ Additionally, the Department may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.⁸⁶ This normally includes the price, quantity, delivery terms and payment terms.⁸⁷ In this review, Fangda Group reported its invoice date as the date of sale and consistent with 19 CFR 351.401(i), the Department preliminarily determines to use the invoice date as the date of sale.

⁸⁰ See the Department’s memorandum entitled “Administrative Review of the Antidumping Duty Order on Small Diameter Graphite Electrodes from the People’s Republic of China: Selection of Surrogate Values,” dated concurrently with this notice (Factor Valuation Memorandum), at Exhibit 1.

⁸¹ See also *Clearon Corp. v. United States*, 2013 CIT LEXIS 27, *19-22 (February 20, 2013).

⁸² See Factor Valuation Memorandum for a more detailed discussion.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ See *Allied Tube & Conduit Corp. v. United States* 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)) (*Allied Tube*).

⁸⁶ See 19 CFR 351.401(i); see also *Allied Tube*, 132 F. Supp. 2d at 1090-1092.

⁸⁷ See, e.g., *Carbon and Alloy Steel Wire Rod From Trinidad and Tobago: Final Results of Antidumping Duty Administrative Review*, 72 FR 62824 (November 7, 2007), and accompanying Issue and Decision Memorandum at Comment 1; *Notice of Final Determinations of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from Turkey*, 65 FR 15123 (March 21, 2000), and accompanying Issues and Decision Memorandum at Comment 1.

Fair Value Comparison

To determine whether the Fangda Group's sales of subject merchandise were made at less than NV, we compared, the NV to weighted-average net EPs in accordance with section 777A(d)(2) of the Act.⁸⁸ See "Export Price" and "Normal Value" sections of this notice, below.

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or constructed export prices (CEPs)) (the average-to-average method) unless the Department determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to use the average-to-transaction method as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in AD investigations.⁸⁹ In recent investigations and reviews, the Department applied a "differential pricing" analysis to determine whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.⁹⁰ The Department finds the differential pricing analysis used in those recent investigations and reviews may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating weighted-average dumping margins.

⁸⁸ In these preliminary results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

⁸⁹ See *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010-2011*, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

⁹⁰ See *Xanthan Gum from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 78 FR 2252 (January 10, 2013), unchanged in *Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); see also *Hardwood and Decorative Plywood From the People's Republic of China: Antidumping Duty Investigation*, 78 FR 25946 (May 3, 2013), unchanged in *Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013); see also *Certain Steel Threaded Rod From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 21101 (April 9, 2013), unchanged in *Certain Steel Threaded Rod From the People's Republic of China: Final Results of Third Antidumping Duty Administrative Review; 2011-2012*, 78 FR 66330 (November 5, 2013); see also *Certain Lined Paper Products From the People's Republic of China: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 34640 (June 10, 2013) unchanged in *Certain Lined Paper Products From the People's Republic of China: Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 65274 (October 31, 2013).

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer names. Regions are defined using the reported destination code (*i.e.*, city name, zip code, *etc.*) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen’s *d* test is applied when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is calculated to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test account for 66 percent or more of the value of total sales, then the identified pattern of EPs that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen’s *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total sales passes the Cohen’s *d* test, then the results of the Cohen’s *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, this demonstrates that the average-to average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

B. Results of the Differential Pricing Analysis

For the Fangda Group, based on the results of the differential pricing analysis, the Department finds that 48.7 percent of the Fangda Group's export sales confirm the existence of a pattern of EPs for comparable merchandise that differs significantly among purchasers, regions or time periods.⁹¹ As such, the Department finds that these results support consideration of an alternative to the average-to-average method. When comparing the weighted-average dumping margin calculated using the standard average-to-average method and the weighted-average margin calculated using the appropriate alternative method, there is not a meaningful difference in the results.⁹² Accordingly, the Department preliminarily determines to use a standard average-to-average method in making comparisons of EP and NV for the Fangda Group.

Export Price

In accordance with section 772(a) of the Act, EP is "the price at which subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States," as adjusted under section 772(c) of the Act. For the Fangda Group, we used EP methodology, because the first sale to an unaffiliated purchaser in the United States occurred prior to importation and the use of CEP was not otherwise indicated.

We based EP on the price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, where appropriate, we made deductions from the starting price

⁹¹ See the Fangda Group's analysis memoranda.

⁹² See *id.*

(gross unit price) for foreign inland freight, distribution warehousing, and foreign brokerage and handling.

Interested parties did not submit surrogate value information for foreign country distribution warehousing expense. We valued foreign country distribution warehousing expense using information we obtained from Jones Lang LaSalle, a professional services and investment management company specializing in real estate, at <http://www.joneslanglasalle.eu>.⁹³ From this source, we obtained yearly area warehousing rent and used this data to calculate a daily weight-based warehousing rent using the internal dimensions and the maximum payload of a standard 40 foot shipping container, obtained from www.foreign-trade.com, to make the area-to-weight conversion. The yearly area warehousing rent we obtained was for warehousing in Kiev, Ukraine. Because data reported in this source were for the calendar year 2010, and, thus, not contemporaneous with the POR, we inflated the surrogate value for rail freight using Ukrainian WPI.⁹⁴

We valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods from Ukraine.⁹⁵ The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport from Ukraine as reported in World Bank Group's *Doing Business 2013 – Ukraine; Trading Across Borders*.⁹⁶

In 2012, the Department announced a change of methodology with respect to the calculation of EP and constructed export price (CEP) to include an adjustment of any un-refunded (herein irrecoverable) VAT in certain non-market economies in accordance with section 772(c)(2)(B) of the Act.⁹⁷ The Department explained that when a non-market economy government imposes an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, the Department will reduce the respondent's EP and CEP prices accordingly, by the amount of the tax, duty or charge paid, but not rebated.⁹⁸ Where the irrecoverable VAT is a fixed percentage of export price, the Department explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. export price downward by this same percentage.⁹⁹

The Department's methodology, as explained above and applied in this review, essentially amounts to performing two basic steps: (1) determining the irrecoverable VAT tax on subject merchandise, and (2) reducing U.S. price by the amount (or rate) determined in step one. Information placed on the record of this review by the Fangda Group indicate that according to

⁹³ See Factor Valuation Memorandum.

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ See *Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings*, 77 FR 36483 (June 19, 2012) (Methodological Change for Implementation of Section 772(c)(2)(B) of the Act).

⁹⁸ *Id.*, and *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 4875 (January 30, 2014) and accompanying Issues and Decision Memorandum at Comment 5.A.

⁹⁹ *Id.*

the Chinese VAT schedule, the standard VAT levy is 17 percent and the rebate rate for subject merchandise is 0 percent. For the purposes of these preliminary results, therefore, we removed from U.S. price the difference between the rates (17 percent), which is the irrecoverable VAT as defined under Chinese tax law and regulation.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if: (1) the merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home market prices, third country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. Under section 773(c)(3) of the Act, FOPs include but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. To calculate NV, we multiplied the per-unit factor-consumption rates reported by the Fangda Group for the POR by publicly available surrogate values (SVs) as discussed below.

Factor Valuations

Section 773(c)(1) of the Act directs the Department to value NME producers' FOPs using the best available information. In determining what constitutes the best available information, the Department selects, to the extent practicable, SVs that are product-specific, representative of broad market averages, publicly available, contemporaneous with the POR, and exclusive of duties and taxes.¹⁰⁰ The record shows that data in the Ukrainian import statistics, as well as those from the other Ukrainian sources, are generally contemporaneous with the POR, product-specific, and tax-exclusive.¹⁰¹ In those instances where we could not obtain publicly available information contemporaneous to the POR, we adjusted the SVs using, as appropriate, the Ukrainian Wholesale Price Index (WPI) or Consumer Price Index (CPI), as published in the International Monetary Fund's *International Financial Statistics*.¹⁰²

We adjusted input prices by including freight costs to make them delivered prices, as appropriate. Specifically, we added to import SVs surrogate freight costs using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997).

¹⁰⁰ See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004).

¹⁰¹ See Factor Valuation Memorandum.

¹⁰² See, e.g., *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 74 FR 9591, 9600 (March 5, 2009), unchanged in *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Determination of Sales at Less than Fair Value*, 74 FR 36656 (July 24, 2009).

Furthermore, with regard to the Ukrainian import-based SVs, we disregarded import prices that we have reason to believe or suspect may be subsidized. In particular, we disregarded import prices from India, Indonesia, and South Korea because we found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies.¹⁰³ Therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.¹⁰⁴ Further, guided by the legislative history, it is the Department's practice not to conduct a formal investigation to ensure that such prices are not subsidized.¹⁰⁵ Rather, the Department bases its decision on information that is available to it at the time it makes its determination.

Also, consistent with our practice, we disregarded import prices from NME countries and excluded imports labeled as originating from an "unspecified" country from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies.¹⁰⁶

Finally, the Fangda Group reported that certain of their raw material inputs were sourced from an ME country. Pursuant to 19 CFR 351.408(c)(1), when a respondent sources inputs from an ME supplier in meaningful quantities (*i.e.*, not insignificant quantities) and pays in an ME currency, the Department uses the actual price paid by the respondent to value those inputs, except when prices may have been distorted by findings of dumping and/or subsidization.¹⁰⁷ Information reported by the mandatory respondents in this review demonstrates that certain inputs were produced by and sourced from an ME country, paid for in ME currencies, and that such inputs were purchased in significant quantities (*i.e.*, 33 percent or more).¹⁰⁸ Therefore, the Department used the mandatory respondents' actual ME purchase prices to value these inputs.¹⁰⁹ Where appropriate, we added freight to arrive at delivered prices.

¹⁰³ See, e.g., *Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order*, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; *Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review*, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20.

¹⁰⁴ See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004), and accompanying Issues and Decision Memorandum at Comment 7.

¹⁰⁵ See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988); see also *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758, 30763 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 60632 (October 25, 2007).

¹⁰⁶ See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates From the People's Republic of China*, 69 FR 75294, 75301 (December 16, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502 (May 10, 2005).

¹⁰⁷ See *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716, 61717-61718 (October 19, 2006).

¹⁰⁸ Because the discussion of ME inputs contains business proprietary information, see Factor Valuation Memorandum for details.

¹⁰⁹ *Id.*

Except as explained below, the Department used Ukrainian import statistics from the GTA or actual ME imports to value the mandatory respondents' FOPs.¹¹⁰

We valued truck freight expenses using a per-unit average rate we calculated from the data we obtained from www.budmo.org, as suggested by the petitioners. This website is an online provider of container shipping, logistics, and freight forwarding services. The website provides freight rates for transporting goods in containers by road from major ports in Ukraine to many large Ukrainian cities.¹¹¹ Because data reported in this source were current as of January 1, 2012, and, thus, not contemporaneous with the POR, we inflated the value for inland truck freight using the Ukrainian WPI.

We valued rail freight expenses using the rail cargo freight rate information from the website of the State Administration of Railway Transport of Ukraine, publicly accessible at <http://www.uz.gov.ua>. We obtained input-specific rail freight tariffs on a U.S. dollars-per-metric ton basis for transporting merchandise between major rail freight stations in Ukraine. Because the data reported in this source were current as of January 1, 2012, and, thus, not contemporaneous with the POR, we inflated the surrogate value for rail freight using Ukrainian WPI.¹¹²

We valued electricity using the electricity tariff data for corporate consumers, as published by the National Electricity Regulatory Commission of Ukraine, an administrative body of the Government of Ukraine, at www.nerc.gov.ua. These electricity rates were furnished by major power distribution companies in Ukraine and represent actual, country-wide, publicly-available information on tax-exclusive basis.¹¹³ We obtained monthly electricity tariffs for the first three months of the POR and averaged these months to compute a single average rate for the POR.¹¹⁴ Because this value is contemporaneous with the POR (*i.e.*, composed of rates current during the POR), it was not necessary to inflate it.

We valued water using information we obtained from certain municipal water and sewage collective enterprises in Ukraine comprising tariff rates established by the National Commission for Regulation of Utilities Market Services of Ukraine. We obtained (or calculated) tariff rates for business consumers in various regions of Ukraine on a value added tax exclusive basis. Because these rates were effective March 1, 2012, we adjusted them to be contemporaneous with the POR.¹¹⁵

Regarding labor, we could not identify Chapter 6A labor data for Ukraine pertaining to the industry specific to subject merchandise.¹¹⁶ In *Labor Methodologies*, the Department explained that, “{i}f there is no industry-specific data available for the surrogate country within the primary data source, *i.e.*, ILO Chapter 6A data, the Department will then look to national data for

¹¹⁰ See Factor Valuation Memorandum for a detailed description of all SVs used in this review.

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (*Labor Methodologies*).

the surrogate country for calculating the wage rate.”¹¹⁷ The latest year for which ILO Chapter 6A reports national data for Ukraine is 2006. We selected this monthly labor value, converted it to an hourly basis, and inflated it to the POR using the Ukrainian CPI. Because the financial statements used to calculate the surrogate financial ratios include itemized detail of labor costs, we made adjustments to certain labor costs in the surrogate financial ratios.¹¹⁸

To value factory overhead, selling, general and administrative expenses and profit, we used the ratios we derived from the 2012 publicly available financial statements for JSC Ukrainskyi Grafyt, a major Ukrainian producer of graphite electrodes.¹¹⁹

The Fangda Group reported that it recovered certain by-products in their production of subject merchandise and successfully demonstrated that these by-products have commercial value.¹²⁰ Therefore, we granted a by-product offset for the quantities of the Fangda Group’s reported by-products. We valued the by-products using Ukrainian GTA data.¹²¹

Use of Facts Available for Certain Factors of Production

As discussed above, the Department may use facts available pursuant to Section 776(a) of the Act when necessary information is missing from the record of the proceeding. During the POR, the Fangda Group used numerous unaffiliated tollers for certain stages of the production process in the production of subject merchandise.¹²² Given the large number of tollers, the Department limited its request for the FOPs of the Fangda Group’s tollers to ten companies.¹²³ The Fangda Group reported to the Department that it was unable to obtain the requested information from any of the ten companies.¹²⁴ As a result, we lack necessary FOP data and the application of “facts otherwise available” is warranted.

As discussed above, pursuant to section 776(b) of the Act, the Department may use facts otherwise available with an adverse inference when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. However, we do not find that the Fangda Group failed to cooperate with respect to obtaining the requested FOPs from its unaffiliated tollers and, accordingly, we are not drawing an adverse inference. The Fangda Group identified its tollers and documented its unsuccessful attempts to obtain the requested FOPs from tollers identified by the Department.¹²⁵ Moreover, (i) the Fangda Group voluntarily provided FOP information from all the tollers that performed one step in the production process that was outsourced entirely with respect to a certain producing entity within the Fangda

¹¹⁷ *Id.*, 76 FR at 36094, fn 11.

¹¹⁸ *Id.*, 76 FR at 36094.

¹¹⁹ See Factor Valuation Memorandum.

¹²⁰ See the Fangda Group’s response, dated July 11, 2013, at D-17 through D-20 and Exhibits D-14, D-15, and D-16.

¹²¹ *Id.*

¹²² See memorandum entitled “Administrative Review of the Antidumping Duty Order on Small Diameter Graphite Electrodes from the People’s Republic of China: Preliminary Results Analysis Memorandum for the Fangda Group,” dated concurrently with this memorandum (Analysis Memorandum).

¹²³ See the Department’s letter, dated November 21, 2013, at 11-12.

¹²⁴ See Fangda Group’s response, dated December 31, 2013, at 26-27.

¹²⁵ See the Fangda Group’s response, dated December 31, 2013, at Appendix S1-D-12.

Group;¹²⁶ (ii) the FOPs of the non-reporting tollers account for relatively small portion of the total FOPs during the POR;¹²⁷ and (iii) there is usable FOP information on the record that can serve as a substitute for the missing FOP information.¹²⁸ Therefore, consistent with our practice we are applying neutral facts available.¹²⁹ Specifically, we are using the Fangda Group's own FOPs and, where applicable, the FOPs of the toller that the Fangda Group submitted voluntarily for the production step that was outsourced in its entirety as facts available for the missing toller information.

Currency Conversion

Where appropriate, we made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

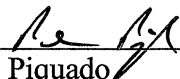
RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

✓

Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

18 MARCH 2014

Date

¹²⁶ See the Fangda Group's response, dated December 31, 2013, at 25-26.

¹²⁷ See Analysis Memorandum.

¹²⁸ See the Fangda Group's submission, dated March 6, 2014, at Appendixes S2-D-2 and S2-D-3, Fangda Group's submission, dated January 6, 2014 at Exhibit D-9, and the Fangda Group's submission, dated July 11, 2013 at Exhibit D-11.

¹²⁹ See, e.g., *Frontseating Service Valves From the People's Republic of China: Final Results of the 2008-2010 Antidumping Duty Administrative Review of the Antidumping Duty Order*, 76 FR 70706 (November 15, 2011) and accompanying Issues and Decision Memorandum at Comment 12; see also *Small Diameter Graphite Electrodes from the People's Republic of China: Final Results of the First Administrative Review of the Antidumping Duty Order and Final Rescission of the Administrative Review*, 76 FR 56397 (September 13, 2011) and accompanying Issue and Decision Memorandum at Comment 9.